IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

A.O.NO.361 OF 2005

Ramesh S. Shetty .. Appellant
(Org. Plaintiff)

vs.

Mistry Mahal Co-op.Hsg.
Soc. Ltd. .. Respondent.

Shri Chaurasia i/b.A.M.Saraogi, Advocate for the Appellant.

Shri S.S.Joshi, Advocate for the Respondent.

CORAM : A.S.OKA, J.

DATED : 29th March, 2005.

P.C. :

1. This Appeal from Order is preferred by the Appellant for challenging the Judgment and Order dated 11.2.2005 passed by the learned Trial Judge by which Notice of Motion for injunction taken out by the Appellant Plaintiff has been dismissed. The learned Trial Judge has dismissed the Notice of Motion on the ground that prima facie it appears from the averments made in the plaint that the Plaintiff is not in possession of the disputed

property.

2. I have heard the Counsel appearing for the parties and I have perused the plaint and other relevant documents on record. Prayer in the suit is for declaration and injunction in respect of the portion of land admeasuring 30ft x 20ft. The averments made in paragraph No.8 of the plaint show that the Respondents are in possesion of the said plot admeasuring 30ft x 20ft. In view of these averments, pending the final hearing of the suit, a drastic prayer made in the Notice of Motion cannot be granted. There is no merit in the appeal and the appeal is dismissed. No order as to costs.

. Hearing of the suit is expedited.

(A.S.Oka, J.)